

REMARKS

By this Amendment, Applicant proposes to amend claims 1 and 11-14 and cancel claim 10. Accordingly, claims 1-9 and 11-14 would be pending in this application if the Examiner enters this proposed Amendment After Final. Claim 1 is still the only independent claim.

Applicant's proposed claim amendments involve incorporating the subject matter of claim 10 into independent claim 1 and amending the dependency of claims 11-14. Based on the proposed amendment to independent claim 1, Applicant proposes to cancel claim 10.

In the Final Office Action, the Examiner rejected claims 1-10 and 12-14 under 35 U.S.C. § 102(b) as being anticipated by Klatt et al. (U.S. Patent No. 3,788,296) and rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Klatt et al.

Applicant respectfully traverses the rejection under 35 U.S.C. § 102(b) because Klatt et al. fails to disclose all of the elements recited in the claims. For example, Klatt et al. fails to disclose a substance delivery device including "a support frame having at least two resilient arms which retain said device in the body cavity, . . . wherein the arms are biased outward from a central section of the support frame," as recited in independent claim 1. Klatt et al. discloses a device for the application of active substances to be born by animals "in the anterior part of the nose." Col. 1, lines 3-7. Unlike the recited substance delivery device configured to be retained internally "in a body cavity," the nasal clamps of Klatt et al., as show in Figs. I through VIII, are configured to be fixed in a ring-like form about the nasal septum of animals. Furthermore, the nasal clamps of Klatt et al. do not have resilient arms "biased outward

from a central section of the support frame.” For at least these reasons, Klatt et al. fails to anticipate independent claim 1 as well as claims 2-9 and 12-14 depending therefrom.

Also, the Examiner has failed to make a *prima facie* case of obviousness regarding dependent claim 11. As explained above, Klatt et al. fails to disclose all of the elements recited in independent claim 1. Moreover, the Examiner neither cited another reference making up for the deficiencies in Klatt et al. nor provided legally sufficient motivation or suggestion to modify the device of Klatt et al. in a manner resulting in the claimed invention. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness regarding independent claim 1 or any claims depending therefrom, including dependent claim 11.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-9 and 11-14 in condition for allowance. Applicant submits that the proposed amendments of claims 1 and 11-14 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

In view of the foregoing remarks, Applicant submits that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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